

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/6/15
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ERIK H. GORDON,

Plaintiff,

-against-

SOFTECH INTERNATIONAL, INC., et al.,

Defendants.
-----X

10 Civ. 5162 (RMB)(GWG)

DECISION & ORDER

Having reviewed the record in this case, including, without limitation, (i) Cross-Defendant Aron Leifer's ("Leifer") letter, dated May 4, 2015, in support of his motion at the close of the trial in this action to dismiss as moot the cross-claim for contractual indemnification by Defendants Arcanum Investigations, Inc. and Dan Cohn "in light of the jury's verdict that Arcanum did not violate the Driver's Privacy Protection Act," (Letter from Andrew Achiron to Hon. Richard M. Berman, dated May 4, 2015, at 1); and (ii) applicable legal authorities, **the Court hereby grants Leifer's motion to dismiss Defendants Arcanum and Cohn's cross-claim for indemnification, as follows:**

(1) On April 24, 2015, a federal jury found that Defendants Arcanum and Cohn did not violate the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721 et seq., and accordingly returned a verdict in favor of Defendants Arcanum and Cohn. (See Judgment, dated April 30, 2015.)

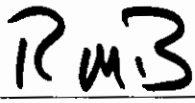
(2) In light of the jury's verdict in favor of Defendants Arcanum and Cohn, Arcanum and Cohn's cross-claim for indemnification against Leifer is moot, and must be dismissed. See McNeight v. Railcar Custom Leasing, LLC, 345 F. App'x 612, 615 (2d Cir. 2009) ("Finally,

RCL appeals the dismissal of its cross-claim for contractual indemnification against ECDC. In light of our dismissal of all claims against RCL, its cross-claim against ECDC is moot.” (citing Wilson v. City of New York, 89 F.3d 32, 39 (2d Cir.1996)).

Conclusion & Order

For the foregoing reasons, Cross-Defendant Aron Leifer’s motion to dismiss Defendants Arcanum and Cohn’s cross-claim is granted. The Clerk of the Court is further directed to close this case.

Dated: New York, New York
May 6, 2015



RICHARD M. BERMAN, U.S.D.J.